

REMARKS

FORMAL MATTERS:

Claims 1-4, 9-14, 19-24, 27, 28 and 30-48 are pending after entry of the amendments set forth herein.

Claims 13, 19, 28, 35, 41, 42, 43, 44, are amended. Support for these amendments is found throughout the specification and in the claims as originally filed and previously presented.

No new matter is added.

INTERVIEW SUMMARY

Applicants are grateful to Examiner Ulm for the telephonic interview conducted with the undersigned on January 6, 2005. The outstanding rejections and the amendments to the claims presented here were discussed. It was agreed that the amendments should place the claims in form for allowance.

ALLOWABLE SUBJECT MATTER (OFFICE ACTION PAGE 2)

Applicants gratefully acknowledge the Examiner's indication that claims 1-4, 9-12, 20-24, 27, 37-40, 43, and 45-48 are allowable.

REJECTION UNDER 35 USC §112, ¶1 (ENABLEMENT) (OFFICE ACTION PAGES 2-3)

Claims 13, 14, 35 and 36 were rejected as failing to comply with the enablement requirement on the grounds that the claims "do not require an isolated polynucleotide encoding the polypeptide that is produced by the claimed method. . . . Applicant is advised that a 'complement thereto', as used in the instant claims does not encode a polypeptide. This rejection is respectfully traversed as applied and as it may be applied to the pending claims.

Applicants respectfully submit that claims 13, 14, 35 and 36 as previously presented include language that make it clear that a polypeptide is produced, thus necessitating that the polynucleotide present in the host cell indeed encodes a polypeptide.

However, in order to expedite prosecution, claims 13 and 35 are amended for further clarity.

Withdrawal of this rejection is respectfully requested.

REJECTION UNDER 35 USC §112, ¶2 (OFFICE ACTION PAGE 3)

Claims 28 and 30-36 were rejected as being vague and indefinite on the grounds that “it is unclear if the limitation ‘or a complement thereof’ is referring to a complement of the ‘isolated polynucleotide molecule’ or a complement of the ‘nucleotide sequence encoding’. It is unclear if every embodiment of isolated polynucleotide molecule encompassed by this claim is required to encode human vitamin D receptor isoform.” This rejection is respectfully traversed as applied and as it may be applied to the pending claims.

Claim 28 is amended for clarity to indicate that the claim encompasses both isolated polynucleotide molecules that encode a human vitamin D receptor isoform, as well as isolated polynucleotides that have a nucleotide sequence complementary to such a coding sequence.

Withdrawal of this rejection is respectfully requested.

REJECTION UNDER 35 USC §102(B) AND §103(A) (OFFICE ACTION PAGES 3-5)

Claims 19, 41, 42 and 44 are rejected under §102(b) or §103(a) as being anticipated by, or obvious in view of, Cretin et al. (*Gene* 99:87-94, 1991). This rejection is respectfully traversed as applied and as it may be applied to the pending claims.

Applicants respectfully submit that these rejections are rendered moot in view of the amendments to the claims. Withdrawal of this rejection is respectfully requested.

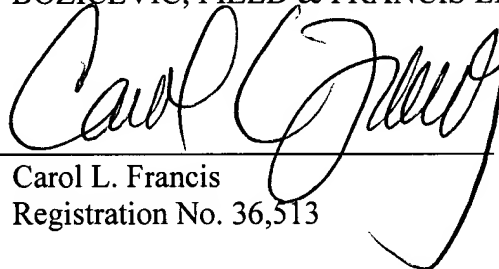
CONCLUSION

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number RICE-014.

Date: Jan 6, 2005

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

By: 
Carol L. Francis
Registration No. 36,513

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, California 94303
• Telephone: (650) 327-3400
Facsimile: (650) 327-3231

F:\DOCUMENT\1RICE\014\Amendment in resp to oa 10.6.04.doc